
REESE LLP

March 18, 2022

VIA ECF

Honorable Ona T. Wang, U.S.M.J.
United States District Court
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 20D
New York, New York 10007

Re: *Ashour, et al. v. Arizona Beverages USA LLC, et al.*
S.D.N.Y Case No. 1:19-cv-07081-(AT) (OTW)

Dear Judge Wang:

We write to provide the parties' status report per the Court's Order dated February 17, 2022 (ECF No. 182).

Plaintiffs' Submission

Defendants' Document Production of March 8, 2022

As the parties informed the court at the status conference held on February 17, 2022, Defendants determined that they possessed two computer drives, labeled the "M drive" and the "U drive," that contained responsive discovery. On March 8, 2022, Plaintiffs received discovery gathered from the "U drive," which has already been reviewed in its entirety by Plaintiffs' counsel. Defendants have not yet produced the discovery contained on the "M drive." Defense counsel has informed Plaintiffs' counsel that he should have an update on the results of that search within two weeks. Defendants have not yet provided a date certain by which they would be able to produce that discovery.

Plaintiffs will note that the "U drive" discovery did not contain the email correspondence between Defendants' employees that Plaintiffs continue to believe should exist in a case like this. Defense counsel has informed Plaintiffs' counsel that he is not sure whether there will be emails in the to-be produced batch of discovery from the "M drive." Accordingly, Plaintiffs believe they likely will need to continue to meet and confer with Defendants in order to come up with broader ESI search terms, as well as perhaps additional custodians, in order to capture responsive emails that may have been missed during the first rounds of ESI searches.

Discovery of Plaintiffs

Plaintiffs have finished their production of documents. The deposition of Crystal Townes, which will be held in person at Defendants' counsel's offices in Manhattan, is presently scheduled for April 8, 2022. Defendants' counsel has requested that the deposition of Joy Brown occur in person in late April. Plaintiffs' counsel has not yet agreed to that deposition proceeding in-person and thus this may be a dispute that requires judicial assistance. Plaintiffs' counsel will seek to meet and confer further with defense counsel about this in the hopes of avoiding that.

Discovery Cut-Off/Schedule

As mentioned above, Plaintiffs are still waiting for documents from Defendants. Plaintiffs need this critical documentary evidence before they can begin taking depositions. Accordingly, the current fact discovery cut-off (April 1, 2022) needs to be extended. Plaintiffs believe they need three months to complete discovery once Defendants have substantially completed their document production.¹

In an effort to try to achieve a swift resolution of this matter, Plaintiffs respectfully request that the Court require the parties to submit a joint status report within four weeks of today's date. Plaintiffs believe that doing so will encourage the parties to continue to diligently litigate this case and avoid any unnecessary delay.

Defendants' Submission

During the recent meet and confer, Defendants' counsel explained that Defendants are completing the M drive search, that counsel does not yet have the results of that search and that counsel expects to receive same within two weeks. Defendants' counsel also advised that once they receive the results, they would be in a position to provide a date as to when a privilege and responsiveness review could be completed and documents furnished.

As to the U drive production, hundreds of pages of documents have been produced that are responsive to numerous of Plaintiffs' documents requests. It is unclear what Plaintiff means by the "email correspondence" they believe should exist in the case. Emails have been produced. We will continue to meet and confer on this issue as necessary.

With regard to the deposition of plaintiff, Joy Brown, Defendants have offered, without prejudice, to travel to California and take the deposition at the law office of Plaintiffs' counsel. We will continue to meet and confer on this issue as well.

Defendants agree that the current discovery deadline be extended.

Thank you for Your Honor's attention to this matter.

¹ Once Defendants' productions are complete and a firm fact discovery cut-off date is in place, Plaintiffs believe that the rest of Plaintiffs' previously-proposed schedule (*see* ECF No. 159 at 7-8) can flow from that fact discovery cut-off date.

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